

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of Permit 20489 (Application 29563)

Merlo Corporation

ORDER REVOKING PERMIT

SOURCE: Unnamed Stream tributary to Fall Creek thence Dry Creek thence Russian River

COUNTY: Sonoma


WHEREAS:

1. Merlo Corporation (Permittee) is the water right holder or authorized agent for the holder of water right Permit 20489.
2. On November 5, 2007, the Permittee requested that the State Water Resources Control Board (State Water Board), Division of Water Rights (Division), revoke Permit 20489.
3. The Division interprets the Permittee's request for revocation as a waiver of the notice and hearing requirements set forth in Water Code sections 1410 and 1410.1.

THEREFORE:

It is ordered that Permit 20489 is hereby revoked by the State Water Board, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated:

JUN 25 2008

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20489

Application 29563 of Harry A. Merlo

111 S.W. 5th Avenue, Portland, Oregon 97204

filed on September 6, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: Tributary to:

Unnamed Stream	Fall Creek thence
	Dry Creek thence
	Russian River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town-ship	Range	Base and Meridian
BY CALIFORNIA COORDINATE SYSTEM, ZONE 2 NORTH 377,900 FEET AND EAST 1,717,900 FEET	NW ¹ / ₄ OF SE ¹ / ₄	20	10N	10W	MD

County of Sonoma

3. Purpose of use:	4. Place of use:	Section	Town-ship	Range	Base and Meridian	Acre
FROST PROTECTION	NE ¹ / ₄ OF NW ¹ / ₄	20	10N	10W	MD	21.4
	SE ¹ / ₄ OF NW ¹ / ₄	20	10N	10W	MD	2.0
	NW ¹ / ₄ OF NE ¹ / ₄	20	10N	10W	MD	8.9
	SW ¹ / ₄ OF NE ¹ / ₄	20	10N	10W	MD	15.7
	SE ¹ / ₄ OF NE ¹ / ₄	20	10N	10W	MD	2.0
					TOTAL	50.0

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 6.1 cubic feet per second to be diverted from March 1 to May 15 of each year. The maximum amount diverted under this permit shall not exceed 49 acre-feet per year. (0000005)
6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)
7. Construction work shall begin within two years of the date of this permit and thereafter shall be prosecuted with reasonable diligence. (0000007)
8. Construction work shall be completed by December 31, 1993. (0000008)
9. Complete application of the water to the authorized use shall be made by December 31, 2000. (0000009)
10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)
11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)
12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

15. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board. Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

16. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, North Coast Region, or by the State Water Resources Control Board. (0000100)

17. Permittee shall fence the colony of Lilium rubescens, a moderately rare plant, which occurs on the bank of a road leading to the reservoir site, to insure that the colony is not disturbed throughout the life of the project. To further protect the colony, Permittee shall notify the California Department of Fish and Game at least 10 days in advance of any land use change in the vicinity of the Lilium rubescens. (0400300)
(0340300)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

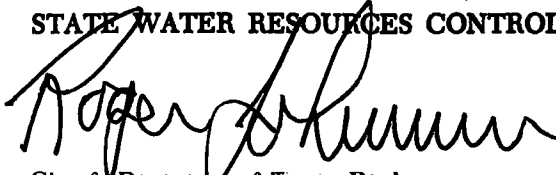
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: JANUARY 14 1991

STATE WATER RESOURCES CONTROL BOARD


61 Chief, Division of Water Rights